

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JUSTIN MATTERA,

Plaintiff,

-against-

**NOTICE OF REMOVAL TO
FEDERAL COURT**

WESTHAMPTON BEACH SCHOOL DISTRICT;
SUZANNE MENSCH, as President of the Board of
Education of the Westhampton Beach School District;
CAROLYN PROBST, as Superintendent of the
Westhampton Beach School District; CHRISTOPHER
HERR, as Principal of the Westhampton Beach High
School; CHARISE MILLER, as Principal of the
Westhampton Beach Middle School, MARY ANN
AMBROSINI, as the Director of Pupil Personnel for the
Westhampton Beach School District, and ROBERT
FINN, as Director of Guidance and Data Management
For the Westhampton Beach School District,

Defendants.

-----X
TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE, that defendants, WESTHAMPTON BEACH SCHOOL DISTRICT, MENSCH, PROBST, HERR, MILLER, AMBROSINI, and FINN hereby remove to this Court the state court action described below.

1. On December 26, 2023, an action was commenced in Supreme Court, Suffolk County by Justin Mattera against the Westhampton Beach School District, Suzanne Mensch, Carolyn Probst, Christopher Kerr, Charise Miller, Mary Ann Ambrosini, and Robert Finn. The case is pending in that court under Index No. 631593/2023.

2. The Westhampton Beach School District and the named employees and Board members were served with the Summons and Complaint on January 3, 2024, attached hereto as Exhibit "A."

3. The Summons and Complaint filed in this State Court action is attached as Exhibit “B.”

4. This Notice of Removal is timely filed in accordance with 28 U.S.C. §1446, in that it is filed within thirty (30) days of the service of the Summons and Complaint.

5. Removal to federal court of an action commenced in state court is proper when the action could have been commenced by plaintiff in federal court under the court’s original jurisdiction. See 28 U.S.C. §1441. According to 28 U.S.C. §1331, the district courts have original jurisdiction of all civil actions “arising under” the Constitution, laws, or treatises of the United States. Pursuant to 28 U.S.C. §1441, a defendant may remove a state court action to federal court where the federal court would have had original jurisdiction over the action. Included in the causes over which Federal District Courts have subject matter jurisdiction are causes of action “arising under the Constitution, laws, or treatises of the United States.” 28 U.S.C. §1331. Federal District Courts also have supplemental jurisdiction over state law claims “that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.” 28 U.S.C. §1367.

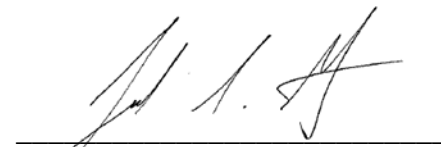
6. This action is one which clearly could have been commenced in federal court, and which arises under both the Federal Constitution and federal statutes. Specifically, plaintiff’s Complaint alleges violations of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act. The Complaint also alleges that the Plaintiff’s First Amendment and Fourteenth Amendment due process rights, as asserted via 42 U.S.C. §1983, were violated. This Court has original jurisdiction pursuant to 28 U.S.C. §1331. The federal claims are claims which may be removed to this Court by defendant pursuant to the provisions of 28 U.S.C. §1441 and §1443.

7. This Court has supplemental jurisdiction over plaintiff's state law claims premised on various violations of State Law, pursuant to 28 U.S.C. §1367.

8. Upon filing this Notice of Removal, written notice of this filing is being provided as required by law. A copy of this notice is also being filed with the Clerk of the Supreme Court, County of Suffolk, where the case was originally filed.

WHEREFORE, defendant hereby respectfully requests that this action be removed to the United States District Court, Eastern District of New York and adjudicated.

Dated: Nesconset, New York
January 26, 2024



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Notice: This Office does not accept service of legal documents by facsimile or other electronic means

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